



COMMONWEALTH OF PENNSYLVANIA
PENNSYLVANIA PUBLIC UTILITY COMMISSION
P.O. BOX 3265, HARRISBURG, PA 17105-3265

IN REPLY PLEASE
REFER TO OUR FILE

January 4, 2001

Office of Policy
Office of Economic, Electricity and Natural Gas Analysis
PO-21, ATTENTION: ELECTRIC RELIABILITY COMMENTS
U.S. Department of Energy
Forrestal Building, Room 7H-034
1000 Independence Avenue, S.W.
Washington, D.C. 20585
(by first class mail and internet mail)

Re: ELECTRIC RELIABILITY COMMENTS, Notice of Inquiry, 65 Fed. Reg. 69753
(November 20, 2000)

To whom it may concern:

Please find enclosed the comments of the Pennsylvania Public Utility Commission with regard to the above Notice of Inquiry.

Very truly yours,

John A. Levin
Assistant Counsel

Pennsylvania Public Utility Commission
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Enclosure

Comments Of The Pennsylvania Public Utility Commission
Regarding Department of Energy Notice of Inquiry
Published November 20, 2000 at 65 Fed. Reg. 69753

The Pennsylvania Public Utility Commission herewith submits its comments to the Notice of Inquiry issued by the U.S. Department of Energy seeking comments on whether to initiate, pursuant to Section 403 of the DOE Reorganization Act (42 U.S.C. 7173) a rulemaking for final action to the Federal Energy Regulatory Commission:

Question No. 1: Is the existing arrangement of voluntary compliance with industry reliability rules sufficient to ensure reliability of the bulk power system? If not, why not and has reliability been jeopardized by violations of the existing bulk power reliability standards?

Answer:

Yes. The Pennsylvania Public Utility Commission is not aware of any recent disruption of the grid that could be attributed to knowing failure or refusal to comply with the current system of voluntary standards, as promulgated by NERC, which could not be addressed by existing security coordinators or private remedial action.

Although we have had informal contacts with NERC on a number of occasions seeking information on its proposed plan, NERC has never been able to satisfactorily explain, using concrete examples, why it needs the extraordinary quasi-governmental powers which it sought through passage in the 106th Congress of H.R. 2944 and S. 2071. It would be imprudent for the Department of Energy or Congress to seek to vest a private international organization with substantial private regulatory and penalty powers without a convincing case made for the necessity of such action.

Question No. 2: What can FERC do under existing authorities to address reliability concerns?

Answer:

FERC should seek to accelerate the formation of RTOs throughout the United States, vesting them with the responsibilities and obligations set forth in FERC Order No. 2000.

Question No. 3: If FERC has the authority to establish and enforce reliability standards, may FERC delegate such authority to a self-regulating reliability organization? Should it do so?

Answer:

The answer to this question depends on the degree of delegation. FERC may not wholly surrender to a private person any of the powers it has obtained from Congress. Any delegation of powers cannot diminish the rights of private parties to due process and Constitutional protections against confiscation.

Question No. 4: Are there elements in CECA, or other electric reliability legislative language, which can, with or without modification, be used in a rulemaking?

Answer:

It is recommended that the Department of Energy review S. 1273, introduced in the 106th Congress, first session. The bill directs FERC to “establish and enforce national reliability standards to ensure the reliability of the electric transmission system”, permits it to designate regional electric reliability councils and one national electric reliability council, provides safeguards regarding process, openness and due process and ensures that FERC has adequate powers to enforce such standards.

Question No. 5: What should the relationship be between Regional Transmission Organizations, as advanced in FERC Order No. 2000, 65 FR 809 (January 6, 2000), FERC Stats & Regs. ¶31089 (2000), and an Electric Reliability Organization as proposed in CECA?

Answer:

Properly constituted Regional Transmission Organizations, which are organized on the principles of independence and openness set forth in FERC Order 2000, should have the principal authority to establish and enforce reliability standards within their regions, in consultation with the existing national electric reliability council. The resolution of any differences of opinion with regard to any standard or the enforcement thereof should be resolved by FERC under Section 202 of the Federal Power Act..

Question No. 6: How should the responsibilities and roles of FERC and the States be addressed in a rulemaking?

Answer:

The responsibilities and roles of FERC and the States must be the subject of Congressional enactment, as neither FERC, nor the Department of Energy have powers granted by Congress under our Constitution to regulate interstate commerce.

Question No. 7: Recognizing the international nature of the interconnected transmission grid, how could implementation of mandatory reliability standards be coordinated with Canada and Mexico?

Answer:

The international implementation of mandatory reliability standards, if it is thought to be necessary, should be proposed by the President of the United States, pursuant to Article II, Section 2 of our Constitution with the consent of the Senate. Coordination of such standards should be through the respective national energy regulatory agencies of each country.

Respectfully submitted,

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